

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 18-MJ-1581
)	
DOUGLAS D. SMITH,)	
)	
Defendant.)	

MOTION TO MODIFY CONDITIONS OF RELEASE

COMES NOW the Defendant, Douglas D. Smith, by and through his attorney, Thomas B. Jameson, Assistant Federal Public Defender, and hereby moves the Court to issue an Order modifying the conditions of release as indicated below. As grounds for this motion, the Defendant alleges the following:

1, On May 9, 2018, Mr. Smith appeared before this Court for a preliminary hearing and a detention hearing.

The Court found probable cause existed, and found that a placement at La Pasada Halfway House was appropriate.

2. Mr. Smith has resided at La Pasada Halfway House for more than a month and has done well with that placement. The United States Probation Office, through mental health assessments, determined that he does not suffer from any identifiable mental health issue nor that he has any identifiable substance abuse issues.

3. Representatives of the United States Probation Office have travelled to Mr. Smith's residence in Espanola, New Mexico, to inspect it and assess whether it would be an appropriate residence and placement while he awaits a resolution of his case. The Probation Office has indicated that the residence is appropriate and that they do not oppose a release from La Pasada Halfway House under appropriate conditions to be set by the Court.

4. The United States Attorney's Office, through Assistant United State's Attorney Novalene Wilson objects to a modification of the conditions of release that would allow Mr. Smith to leave La Pasada Halfway House and return to his residence.

5. Mr. Smith has resided at his residence in Espanola for most of his adult life. Mr. Smith is now 68 years of age. Mr. Smith has over the years managed the family business, a motel and longer-term rentals of the motel units business.

6. Mr. Smith has no prior felony convictions and, in total, one interaction with the criminal justice system more than thirty years ago. That interaction resulted in a motor vehicle offense.

7. While the government alleges that the crime Mr. Smith is accused of occurred in Indian Country, it is clear that, in this case, "Indian County" is within the confines of what most New Mexican citizens regard as Espanola, New Mexico. The area that is geographically and commonly known as Santa Clara Pueblo is approximately a 20-minute drive from Mr. Smith's residence and the location of the alleged criminal offense.

8. The government, to date, has not alleged that there any threats being made either by or against Mr. Smith by members of Santa Clara Pueblo. Similarly, there is no indication that if Mr. Smith were to be released that he would be in a position to improperly influence any potential witnesses in his case.

9. It is Mr. Smith's position that he is clearly neither a flight risk nor a danger to the community and that a release by this Court which would require him to live at his residence in Espanola, New Mexico, under any conditions the Court deems appropriate would be the least restrictive and most appropriate placement available to the Court.

WHEREFORE, Mr. Smith respectfully requests that the Court issue an order modifying Mr. Smith's conditions of release to allow him to live at his residence in Espanola, New Mexico, under any conditions the Court and the United States Probation Office deems appropriate.

I HEREBY CERTIFY THAT on June 12, 2018, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing: AUSA Novaline Wilson.

/s/ filed electronically

Respectfully submitted,

FEDERAL PUBLIC DEFENDER
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/s/ filed electronically on 6/12/18
THOMAS B. JAMESON, AFPD
Attorney for Defendant